

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:05CR3027
)
v.)
)
JOSEPH L. YOUNG,) MEMORANDUM AND ORDER
)
Defendant.)
)

The prosecutor and defense counsel have filed a joint stipulation (filing 128) suggesting that I grant a motion to reduce the defendant's sentence because of a retroactive amendment to the "crack" Guidelines. Based upon that stipulation, the defendant has filed a motion (filing 127) asking that I reduce the sentence. However, these filings fail to comply with the Court's standard practice and they omit material information.

First, there is no indication that the parties have consulted the probation officer assigned to this case regarding this latest turn of events. I will not act until I receive a retroactive sentencing worksheet from the probation office regarding the pending motion. That worksheet should include a report about the defendant's conduct while in prison, other relevant conduct (see below) and it should also include the probation officer's recommendation.

Second, the probation office previously submitted such a worksheet to me on or about April 16, 2008 recommending that no such sentence reduction be granted because the defendant failed to report to the Bureau of Prisons as required. It appears that the defendant was on "escape" status for well over 2 years (*compare* filing 89 (judgment with self surrender deadline) and filing 100 (petition for action alleging

that the defendant failed to self surrender as ordered on November 27, 2006) *with* filing 123 (arrest warrant returned executed and entered on July 22, 2009)) before he was apprehended and incarcerated. Indeed, it appears that the defendant was convicted of this failure to appear and given an 18-month sentence to run concurrent with the sentence imposed in this case. *See United States v. Young*, 4:07CR 3025 (D. Neb.). Under these circumstances, one wonders whether any sentence reduction is appropriate.

With the foregoing in mind,

IT IS ORDERED that Jen Baker, United States Probation Officer, shall prepare and submit to the undersigned and counsel a retroactive sentencing worksheet. No action will be taken until such worksheet is provided. My chambers shall provide Ms. Baker with a copy of this Memorandum and Order. My chambers shall also call this case to my attention when the worksheet is provided to me.

September 15, 2010.

BY THE COURT:

Richard G. Kopf
United States District Judge